

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

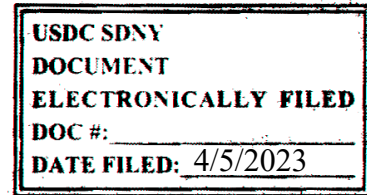
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**KAMLESH BANGA,**

**Plaintiff,**

**-against-**

**LAWRENCE R. LUSTIG, M.D., et al.,**

**Defendants.**  
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**22-CV-9825 (PAE)(SN)**

**ORDER**

**SARAH NETBURN, United States Magistrate Judge:**

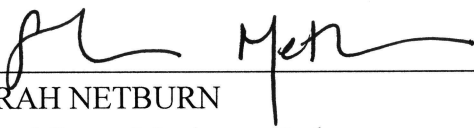
Defendants filed a motion to dismiss the complaint for lack of subject matter jurisdiction, under Federal Rule of Civil Procedure 12(b)(1), and failure to state a claim, under Federal Rule of Civil Procedure 12(b)(6). See ECF No. 18. The Court encouraged the Plaintiff to consult with the NYLAG Legal Clinic for free legal assistance with the opposition to that motion. ECF No. 20. Rather than oppose the motion, Plaintiff has filed a First Amended Complaint, ECF No. 25, and a Proposed Revised First Amended Complaint, ECF No. 26.

Because the Court of Appeals for the Second Circuit strongly favors allowing a pro se plaintiff leave to amend when faced with a motion to dismiss, the Court will accept Plaintiff's Proposed Revised First Amended Complaint as the current operative complaint.

By April 12, 2023, the Defendants shall advise the Court whether they intend to stand by their original motion, now asserted against the First Amended Complaint, or whether they prefer that the original motion be dismissed as moot so that the Defendants can respond to the First Amended Complaint's allegations.

**SO ORDERED.**

DATED: April 5, 2023  
New York, New York

  
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SARAH NETBURN  
United States Magistrate Judge